

#### **401 KAR 45:060. Special waste permit-by-rule.**

RELATES TO: KRS 224.1, 224.10, 224.40, 224.46, 224.50, 224.99

STATUTORY AUTHORITY: KRS 224.10-100, 224.40-305, 224.50-760

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 224 requires the cabinet to promulgate administrative regulations for the management, processing, and disposal of wastes. KRS 224.40-305 requires persons who establish, conduct, operate, maintain, or permit the use of a waste site or facility to obtain a permit. This administrative regulation establishes the requirements for a special waste permit-by-rule.

Section 1. Permit-by-rule. Notwithstanding any other provision of this chapter, the following special waste sites or facilities shall be deemed to have a permit without the owner or operator having made application or registration with the cabinet, if the operation is a practice common to the industry, if the site or facility is not in violation of 401 KAR 30:031, and if the operation does not present a threat or potential threat to human health or the environment:

- (1) Pits subject to 401 KAR 5:090;
- (2) Temporary storage of special waste in piles;
- (3) Injection wells:
  - (a) Used for disposal of special waste subject to 805 KAR 1:110; or
  - (b) In compliance with an underground injection control permit issued by the U.S. EPA;
- (4) Special waste surface impoundments with a KPDES permit;
- (5) If the facility is in compliance with the KPDES or NPDES permit, surface impoundments that:
  - (a) Treat domestic sewage and that do not contain any industrial wastewater; or
  - (b) Are publicly owned treatment works for the treatment of domestic sewage; and
- (6) Beneficial reuse of coal combustion by-products for placement at active or abandoned underground or surface coal mines, including structural fill, backfill, material for contouring, mine stabilization, and reclamation material, if:
  - (a) The utilization of coal combustion by-products does not result in the creation of a nuisance condition;
  - (b) Erosion and sediment control measures consistent with sound engineering practices shall be undertaken;
  - (c) Unless permission has been obtained from the appropriate regulatory agency, the use is not within 100 feet of existing streams or 300 feet of existing drinking water wells, floodplains, or wetlands;
  - (d) The generator characterizes the nonhazardous nature of the coal combustion by-products; and
  - (e) The generator submits to the cabinet an annual report that identifies the:
    1. Type and amount of coal combustion by-products released for reuse;
    2. Name and address of each recipient of coal combustion by-products; and
    3. Specific use, if known, of each recipient made of the coal combustion by-products.

Section 2. Noncompliances. (1) A special waste permit-by-rule site or facility that is not operating in compliance with Section 1 of this administrative regulation shall be subject to appropriate enforcement action, including corrective action or revocation.

(2) The cabinet may require the owner or operator of a special waste permit-by-rule site or facility to upgrade the permit to a registered permit-by-rule if doing so will ensure that the requirements of this chapter and the environmental performance standards of 401 KAR 30:031 are met. (18 Ky.R. 3089; 3437; eff. 6-24-1992; 43 Ky.R. 796, 1558; eff. 5-5-2017; 44 Ky.R. 319,

1258; eff. 12-7-2017; Crt eff. 9-5-2018.)